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ARIZONA ATTORNEY GENERAL

August 24, 1951
51-229

Mrs. Jewel W. Jordan
State Auditor
Capitol Building
Phoenix, Arizona

Dear Mrs. Jordan:

We have your letter of August 8, asking for our opinion on the following question:

"Will you please advise this office as to whether or not raw products for canning may be purchased from the Revolving Fund, as established under Section 3 Ch 49 Laws 1949.

If your ruling is in the affirmative, then please advise us whether or not under Section 2 of this same chapter, the Canning Plant may sell to the Prison their finished products at a profit, which would be normally chargeable to their Current Expenses account."

Section 1, Chapter 49, Laws of 1949, reads in part as follows:

Section 1. CANNING PLANT AUTHORIZED. A plant shall be established at the state prison for the canning of produce for the use of the prison.
* * * (Emphasis supplied)

Section 3 of said Chapter reads:

"Sec. 3. REVOLVING FUND. A revolving fund to be known as the prison cannery revolving fund shall be established by the state treasurer, to consist of the proceeds remaining of the appropriation made by this Act after all obligations incurred under the provisions of Section 1 have been satisfied. All expenses of upkeep, maintenance and operation of the prison cannery shall be paid out of the prison

Mrs. Jewel W. Jordan
State Auditor

August 24, 1951
Page Two

cannery revolving fund, and reimbursed by receipts from the products of the cannery. Any proceeds of the revolving fund in excess of thirty thousand dollars shall be placed in the general fund." (Emphasis supplied)

Under this section the prison is authorized to expend money to pay the expenses of the operation of the plant. Your question is whether the purchase of raw products to be used in the plant is an expense of operation.

The Legislature intended the plant should be used after it was constructed to can produce for prison use and the excess to be sold or exchanged to other state institutions, acquiring materials in some manner to carry on the canning operations is necessary to operate the plant, and if it becomes necessary to buy raw produce to be canned in the plant to accomplish the purpose contemplated by the Act, Money expended for raw products would be an expense of operation the same as oil or electricity for the operation of the machinery, or containers for the products canned.

"Operation" is defined as follows:

By the Standard Dictionary, "operation" is defined as "a course or series of acts to effect a certain purpose."

Webster defines the word "operation" as "an effect brought about in accordance with a definite plan."

In S.F. & P. S. S. Co. v. Scott, 253 Fed. 854 (9 CCA) "operation" is defined as follows:

"The operation of a business or property includes payment for labor and materials which go into the actual operation thereof."

It is our opinion that money in the Canning Plant Revolving Fund may, when necessary to carry on operation of the plant, be used to purchase raw produce for use in the plant.

Answering your second question, your attention is directed to Section 2 of the Act, which contains the only provision for sales of products of the plant. The section reads:

Mrs. Jewel W. Jordan
State Auditor

August 24, 1951
Page Three

"Sec. 2. EXCHANGE OR SALE OF PRODUCTS.
The superintendent of the prison may
exchange or sell to other state insti-
tutions any canned produce in excess of
the prison's needs." (Emphasis supplied)

This authorizes the prison to sell only the excess to other state institutions. When considered with Section 1 of the Act, which states the product of the plant shall be for the use of the prison, we think it apparent the Legislature did not intend that the prison should sell its own products to itself.

Therefore, it is our opinion the prison is not authorized under the Act to sell its canned products to itself at a profit and charge the profits to the prison current expense fund.

Very truly yours,

FRED O. WILSON
Attorney General

EARL ANDERSON
Assistant Attorney General

EA:f